

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**October 24, 2002**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 24, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen Chair, Kerry Coulter Vice-Chair, Jerry Michaelis, Ron Marnell; Don Anderson; Bill Johnson; Harold Warner; Frank Garofalo; Ray Warren; James Barfield; David Wells, John McKay, Jr., Elizabeth Bishop and Dorman Blake. Staff members present were: Mike Lindebak, Secretary; Dale Miller, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Donna Goltry, Principal Planner; Jess McNeely Associate Planner; Jamsheed Mehta, Chief Planner, Transportation Planning and Rose Simmering, Recording Secretary.

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#### **1. Approval of MAPC meeting minutes September 12, 2002, September 26, 2002 and October 10, 2002.**

GAROFALO On the meeting minutes for September 26, 20002, on page 9, I believe the motion is not in the correct spot. On the same meeting minutes September 26, 2002, on page 10, instead of denied the word should be opposed.

DALE MILLER Those corrections will be made to the September 26, 2002 meeting minutes.

**MOTION:** That the minutes for September 12, 2002, September 26, 2002 and October 10, 2002 be approved.

**MICHAELIS** moved, **JOHNSON** seconded the motion, and it carried (10-0).

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#### **2. Consideration of Subdivision Committee Recommendations**

##### **2-1. SUB2002-00055 – Final Portion of Overall Preliminary Plat – SOUTHERN RIDGE ADDITION, located on the west side of Maize Road, on the south side of Pawnee.**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **An off-site drainage easement is needed. A drainage guarantee is needed. County Engineering has concerns regarding the amount of right-of-way in Pawnee that may be needed to pass the drainage past the plat from the west.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **Left turn lanes at Pawnee and Maize are needed.**
- F. **Traffic Engineering has requested the extension of Yosemite to Maize Road and a cul-de-sac for Lamp. A left turn lane for Maize Ct is also needed.**
- G. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- H. It is recommended that Reserve C be extended to the street by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition.  
  
Reserves D and E have been platted for additional access to Reserve C.
- I. Since Reserves D and E include a swimming pool, a site plan shall be submitted with the final plat tracing, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. The applicant shall guarantee the paving of the private street (Maize Ct) to a public street pavement standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- N. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of the reserve for private street purposes and shall state which specific lots are to be accessed by the reserve.
- O. The reserve being platted as private street shall be labeled as "private street".
- P. The wall easement shall be referenced in the plat's text.
- Q. The City Fire Department/GIS needs to comment on the plat's street names. **Revised street names are needed.**
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-2. SUB2002-104 – One-Step Final Plat – ARNOLD'S FIRST ADDITION, located on the southeast corner of 215<sup>th</sup> Street West and Maple.**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **County Engineering has requested a flood study and a drainage plan. The terraces' impact on the site needs to be shown on drainage plan.**
- D. The plat proposes one access opening along both arterials. Distances should be shown for all segments of access control. The final plat tracing shall be corrected to reference the dedication of appropriate access controls in the plat's text. **County Engineering and MAPD recommend that one opening on 215<sup>th</sup> St. be approved for the site, to be located along the south 30 feet of the property.**
- E. The plat's text needs to be corrected to reference Arnold's First Addition.
- F. **In accordance with the Access Management Policy, County Engineering has required a 60-ft half-street right-of-way, along with a major intersection right-of-way and a 25-ft x 25-ft corner clip at the intersection.**
- G. The plat's text shall note the dedication of the street to and for the use of the public.
- H. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- I. On the final plat, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- J. The year "2002" should be referenced in the Board of County Commissioners signature block.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-3. SUB2002-106 – One-Step Final Plat – TENNANT ADDITION, located on Seneca and Pawnee.**

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A revised lot grading plan is needed.**
- D. Due to the single-family home located one foot from the east property line, it is recommended that an 11-ft side yard setback be platted. The Zoning Code requires a 6-ft side yard setback.
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- G. On the final plat, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- H. The owner's certification needs to be corrected to include the correct spelling of the owner's name.
- I. On the final plat tracing, the City Council signature block should be revised to replace the Mayor's signature line with the City Manager, preceded above by "At the direction of the City Council".
- J. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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- 2-4. **SUB2002-00093 – One-Step Final Plat – BOOTH EARLY CHILDHOOD CENTER ADDITION, located west of Woodlawn, on the north side of Mt. Vernon.**
- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Storm sewer improvements for the parking lot are needed at the time of site development.**

- D. The platlor's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along Mt. Vernon. Distances should be shown for all segments of access control. **A meeting between the Traffic Engineer and Applicant is needed for a determination of the location of the access opening on Mt Vernon before the MAPC meeting.**
- F. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. On the final plat tracing, the MAPC signature block needs to reference "Michael E. Lindebak, Secretary".
- H. On the final plat tracing, the MAPC signature block needs to reference "Bernard A. Hentzen, Chair".
- I. The applicant is advised that in regard to the portion of the building within the building setback; that while such areas of the existing structure may be maintained, no enlargement of the building in such area will be allowed and if removed, all subsequent rebuilding shall observe building setbacks.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

**2-5. DED2002-00031 – Dedication of Street Right-of-Way, from David and Judy Cansler, for property located between on the northeast corner of 58<sup>th</sup> Street South and Seneca.**

**OWNER/APPLICANT:** David and Judy Cansler, 4714 W. 55<sup>th</sup> Street South, Wichita, KS 67215

**AGENT:** Terra Tech Land Surveying, C/O Michele Webster, 22200 W. 63<sup>rd</sup> Street South, Viola, KS 67149

**LEGAL DESCRIPTION:** The west 30 feet of the north half of Lot 2, Bone's South Seneca Gardens, Sedgwick County, Kansas, together with vacated Bone's Drive adjoining on the north.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of Lot Split No. SUB 2002-100 and is being dedicated for 30 feet of right-of-way along Seneca Street.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-6. DED2002-00032 – Dedication of Street Right-of-Way, from David and Judy Cansler, for property located between on the northeast corner of 58<sup>th</sup> Street South and Seneca.**

**OWNER/APPLICANT:** David and Judy Cansler, 4714 W. 55<sup>th</sup> Street South, Wichita, KS 67215

**AGENT:** Terra Tech Land Surveying, C/O Michele Webster, 22200 W. 63<sup>rd</sup> Street South, Viola, KS 67149

**LEGAL DESCRIPTION:** The east 35 feet of the north half of Lot 2, Bone's South Seneca Gardens, Sedgwick County, Kansas, together with vacated Bone's Drive adjoining on the north.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of Lot Split No. SUB 2002-100 and is being dedicated for 35 feet of right-of-way along Osage.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-7. DED2002-00033 – Dedication of Street Right-of-Way, from David and Judy Cansler, for property located between on the northeast corner of 58<sup>th</sup> Street South and Seneca.**

**OWNER/APPLICANT:** David and Judy Cansler, 4714 W. 55<sup>th</sup> Street South, Wichita, KS 67215

**AGENT:** Terra Tech Land Surveying, C/O Michele Webster, 22200 W. 63<sup>rd</sup> Street South, Viola, KS 67149

**LEGAL DESCRIPTION:** The south 60 feet of the north half of Lot 2, Bone's South Seneca Gardens, Sedgwick County, Kansas, together with vacated Bone's Drive adjoining on the north.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of Lot Split No. SUB 2002-100 and is being dedicated for 60 feet of right-of-way along 58<sup>th</sup> Street South.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-8. DED2002-00034 – Dedication of Access Control, from David and Judy Cansler, for property located between on the northeast corner of 58<sup>th</sup> Street South and Seneca.**

**OWNER/APPLICANT:** David and Judy Cansler, 4714 W. 55<sup>th</sup> Street South, Wichita, KS 67215

**AGENT:** Terra Tech Land Surveying, C/O Michele Webster, 22200 W. 63<sup>rd</sup> Street South, Viola, KS 67149

**LEGAL DESCRIPTION:** The west 330 feet of the north half of Lot 2, Bone's South Seneca Gardens, Sedgwick County, Kansas, together with vacated Bone's Drive adjoining on the north, except the west 30 feet and the south 30 feet thereof.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of Lot Split No. SUB 2002-100 and is being dedicated for complete access control along Seneca Street.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-9. DED2002-00035 – Dedication of Street Right-of-Way, from Ernest C. Doyan, for property generally located at the southeast corner of Broadway and Boston.**

**OWNER/APPLICANT:** Ernest C. Doyan, 1825 S. Broadway, Wichita, KS 67211

**AGENT:** Greg Ferris, Ferris Consulting, P.O. Box 573, Wichita, KS 67201

**LEGAL DESCRIPTION:** The west 12.5 feet of the south two-thirds of the west half of Lot 7 and the west 12.5 feet of the west half of Lot 8, Zimmerly's Addition, Wichita, Kansas.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of a Conditional Use (Case No. CON 2002-43) and is being dedicated for 12.5 feet of additional street right-of-way along Broadway Avenue.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**2-10. DED2002-00036 – Dedication of Access Control, from Ernest C. Doyan, for property generally located at the southeast corner of Broadway and Boston.**

**OWNER/APPLICANT:** Ernest C. Doyan, 1825 S. Broadway, Wichita, KS 67211

**AGENT:** Greg Ferris, Ferris Consulting, P.O. Box 573, Wichita, KS 67201

**LEGAL DESCRIPTION:** The south 11 feet of Lot 3, all of Lots 5 and 7, Tosh's Subdivision of Lot 6, Zimmerly's Addition; and the west half of Lot 7 and 8, Zimmerly's Addition, Wichita, Kansas, except the west 12.5 feet thereof dedicated for street.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of a Conditional Use (Case No. CON 2002-43) is being dedicated for access control, except for two openings, on Broadway Avenue.

Planning Staff recommends that the Dedication be accepted.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BLAKE** seconded the motion, and it carried (13-0).

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**3. Case No. ZON2002-00024 – 45<sup>th</sup> Street Properties, L.L.C. (Applicant); Mike Brand (Agent) Request to waive development restrictions contained in Protective Overlay 68 on property described as:**

RE: A tract of land lying in the NW 1/4 and SW 1/4 of Section 29, Township 26 South, 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows: Commencing at the SE corner of said NW 1/4; thence S 89 degrees 00' 08" W, 20.00 feet along the South line of said NW 1/4; thence N 00 degrees 49' 16" W, 1825.09 feet, parallel with the East line of said NW 1/4 to a point of beginning, said point being a point on a curve to the left; thence along said curve 887.25 feet, said curve having a central angle of 89 degrees 38'02", a radius of 567.15 feet, and a long chord of 799.50 feet, bearing N 45 degrees 38'17" W; thence S 89 degrees 32'42" W, 662.94 feet; thence S 78 degrees 21'42" W, 19.59 feet to the southerly right-of-way line of Missouri Pacific Railroad; thence N 61 degrees 31'26" E, 497.70 feet along said southerly line to a point lying 35.00 feet south of the north line of said NW 1/4; thence N 89 degrees 38'23" E, 824.88 feet, parallel with said north line, to a point on the east line of said NW 1/4; thence S 00 degrees 49'16" E, 792.07 feet along said east line; thence S 89 degrees 10'44" W, 20 feet to the point of beginning. Generally located South of 45<sup>th</sup> Street North approximately 1/2 mile east of Rock Road.

**BACKGROUND:** The application area is 7.3 acres located south of 45<sup>th</sup> Street North, one-half mile east of Rock Road. The property is a narrow east to west "T" shaped tract lying between a railroad spur located along the southern property line, and 45<sup>th</sup> Street North, located to the north. The Sun Air Addition is located east of the application area. The application area has been platted as Willow Place Addition, and contains 21 lots. Ten of the 21 lots have been developed with two-family residences. The applicant has indicated that all units built at the time of application have been rented. Generally speaking, the developed lots are in the western half of the addition. The lots closest to the Sun-Air Addition have not been developed so far. The duplex residences have predominately brick facades on all facades, and have either hip or gable or a combination of the two rooflines. On March 21, 2000, the City Council approved "TF-3" Two-family Residential zoning, subject to Protective Overlay PO-68:

1. Building height is limited to 25 feet.
2. The front of each unit shall be of brick construction from ground level to a height of 4 feet at a minimum.
3. Two 3-inch caliper trees will be planted and maintained in the rear setback of each lot with a residential building.
4. Not applicable, dealing with covenants.
5. Rooflines shall be alternated between hipped, gabled and Dutch hipped, and the roofing material shall be Heritage II, 30 year or equivalent.
6. No wooden or chain link fences shall be allowed.
7. None of the Conditional Uses listed in the Unified Zoning Code, Article III, Section III-B.6.c, October 28, 1999, shall be permitted on the property.

The Protective Overlay was developed after meetings with neighboring property owners, chiefly from the Willowbend development located south of Willow Place Addition. The requirements were meant to address concerns nearby residents expressed at the time the duplex zoning was requested. The discussions went well enough that the applicant's agent sent a letter (attached) asking for the Protective Overlay to be attached to the case, and the President of the Willowbend Homeowner's Association appeared before the MAPC and spoke in favor of the "TF-3" zone case and PO requirements. The MAPC minutes also contain the agent for the applicant's statement that the applicant volunteered the PO conditions.

The applicant is seeking to leave conditions 1, 2, 3, 4 and 7 as originally proposed. The applicant is seeking to amend conditions 5 and 6. Condition 5 is proposed to say: "Roof lines are to be alternated between hipped and gabled." Condition 6 is proposed to say: "No chain link fences are allowed."

To-date the developed lots within the project appear to have been developed in substantial compliance with conditions 1, 2, 5, 6 and 7. (Condition 4 is excluded as it deals with private covenants.)

Condition 5 addresses roofline. The proposed language is: "Roof lines are to be alternated between hipped and gabled." The homes currently built in the subdivision have gable or hip roofs, which is consistent with this requirement. No "Dutch hipped" rooflines have been utilized to-date, and the applicant would like to clarify that this roofing style is not required to be built. This provision would ensure that the remaining lots could not be developed with buildings that have rooflines different (e.g. flat-roof or a mansard roof) from those that are already in-place, even though gable and hip roofs are the more practical type of construction for duplex units. Nearby developed properties have rooflines like those prescribed by the PO.

With respect to condition 6, prohibiting wooden or chain link fencing, the applicant proposes the following language: "No chain link fences are allowed." A wooden fence has been constructed along the north side of Willow Place Addition (application area), facing the south side of 45<sup>th</sup> Street. The fence runs from the west end of the addition to just east of Spyglass Street, the western entrance to the subdivision. Metal support posts are located on the south side or interior side of the fence. The wooden fence is most visible from 45<sup>th</sup> Street. A masonry wall is located between Willow Place Addition and Willowbend, between the railroad tracks and Champions Street. The masonry wall and the duplex units screen much of the view of the wooden fence from street or yard view of most homes in Willowbend. More of the wooden fence may be visible from inside the eight Willowbend homes having windows facing Willow Place as the floors of the Willowbend homes are elevated when compared to at-grade street or yard elevations. There are other Willowbend homes located along Champions, but the closest homes side the Willow Place project. There are two Sun-Air lots adjacent to the Willow Place project, and they side or back onto Willow Place. The Willow Place wooden fence does not have any landscaping material to soften or obscure the view of the entire length of the wooden fence from 45<sup>th</sup> Street view. In lieu of replacing the wooden fence with approved materials, tree and shrub plantings could be placed along the 45<sup>th</sup> Street side of the fence at intervals to obscure the wooden fence. Another option might be to add concrete or wooden pillars at selected intervals to provide some articulation. A third option is to delete the wooden fencing material limitation as requested. A fourth option is to simply remove the fence, since the PO does not require fencing, although this would probably be even more unsightly.

Surrounding properties are zoned "MF-18" Multi-family Residential, "SF-5" Single-family Residential and "LI" Limited Industrial. Developed land uses on the surrounding properties are vacant or single-family residential. The "MF-18" and "LI" properties are undeveloped. The Willowbend Addition has a masonry wall surrounding the development, and most Willowbend residences have masonry on at least a portion of their building exteriors that provide an identifying element for the neighborhood.

**CASE HISTORY:** In 1982, "E" Light Industrial zoning was approved, subject to platting. However, the tract was never platted so the zone change was closed. In 1998, the City Council denied a request for "OW" Office Warehouse. "TF-3" Two-family Residential zoning was approved in 2000, as was the Willow Place Addition.

This case has been reviewed previously by the DAB. A separate Committee was also established by the DAB to try to develop a consensus solution to these requests.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: MF-18, Multi-family Residential; vacant  
SOUTH: SF-5, Single-family Residential; residences  
EAST: SF-5, Single-family Residential; residences  
WEST: "LI", Limited Industrial; vacant

**PUBLIC SERVICES:** The site has access to 45<sup>th</sup> Street North, which is a paved two-lane road. All other public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan does not specifically speak to this type of request, however, the Plan does contain a number of statements encouraging: the use of appropriate buffer materials to screen neighboring uses; involvement of neighborhood associations in the identification of critical visual elements, and efforts to promote neighborhood identity through special treatment of edges. The City Council currently is promoting the planting of new trees throughout the city. With respect to the wooden fence, the plan contains objectives specifically designed to improve the visual appearance of the city by paying closer attention to the design and manner of placement of elements along major streets. Also, once adopted by the governing body, the conditions of a Protective Overlay can be viewed as specific policy positions for a given location.

**RECOMMENDATION:** Staff recommends the proposed amendments to the Protective Overlay be approved as requested by the applicant: allow the use of wooden fencing materials, and specify that gable and hipped roofs are the only styles required.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There is a mix of zoning districts in the neighborhood ranging from "SF-5" Single-family, "MF-18" Multi-family and "LI" Limited Industrial. About half of the properties surrounding the



application area are undeveloped, while the other half are developed with single-family residential, representing a wide range of age, construction type and market value. The Willowbend development has a masonry wall and prohibits wooden fencing. These neighborhood characteristics were used to develop the standards contained in the PO.

2. The suitability of the subject property for the uses to which it has been restricted: Use of the property and its appurtenances, is currently regulated by the standards established by the "TF-3" zoning district, and the conditions contained in PO-68. The applicant has developed 10 of the 21 lots covered by these restrictions. The developed lots, and the rest of the site can be developed in full compliance with the conditions of the Protective Overlay, however removal of the wooden fence could cause more of a negative impact than waiving this requirement, as there is no requirement for fencing to screen the rear of the lots. There are many examples of wooden fences along section-line streets in Wichita. Clarifying that Dutch hipped roofs are not required is a good clarification that does not affect the suitability of the property for residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: These restrictions were designed to address concerns about compatibility of land uses, building materials, building forms and landscaping. Failure to comply with these conditions could result in changes to the character of the application area that could allow uses that were not seen to be compatible with adjacent uses and nearby development character – use of masonry exteriors, fencing material other than wood, alternating rooflines, height limits and landscaping. Absent indications that market or development conditions have changed that make it impossible for the applicant to comply with the conditions contained in the PO, the removal of the restrictions could detrimentally impact neighbors' faith in the zoning process and in the developers' commitment to following through with those commitments, and in the City's commitment to address and enforce development requirements that were specifically negotiated between the original developer and neighbors. However, wooden fencing is a common fencing material used throughout the community. Staff is not aware that properties to the north, east or further west of the application area are subject to this prohibition. Again, clarifying that Dutch hipped roofs are not required does not detrimentally affect nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The key hardship to the applicant appears to be financial and equal opportunity to use fencing materials that are commonly used throughout the community. The public seeks to promote neighborhood identity and compatibility of uses and building materials by maintaining the current PO language.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Plan contains a number of statements encouraging: the use of appropriate buffer materials to screen neighboring uses; involvement of neighborhood associations in the identification of critical visual elements and efforts to promote neighborhood identity through special treatment of edges. The plan contains objectives specifically designed to improve the visual appearance of the city by paying closer attention to the design and manner of placement of elements along major streets. Also, once adopted by the governing body, the conditions of a Protective Overlay can be viewed as specific policy positions for a given location.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER We solved this case with the applicant and the neighbors. It will be handled as an Administrative Adjustment.

**MOTION:** Withdraw the case from consideration.

**MARNELL** moved, **GAROFALO** seconded the motion, and it carried (13-0).

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4. **Case No. CON2002-00048** – City of Wichita Request Conditional Use to construct a water tower on property described as:

A tract of land located in the Southwest Quarter of Section 17, Township 26 South, Range 2 East of the 6<sup>th</sup> P.M. Sedgwick County, Kansas, described as beginning at the Southeast corner of said Southwest Quarter; thence North along the East line of said Southwest Quarter, 430.00 feet; thence West, parallel with the south line of said Southwest Quarter, 400.00 feet; thence South, parallel with the east line of said Southwest Quarter, 430.00 feet to a point on the south line of said Southwest Quarter; thence East along the south line of said Southwest Quarter, 400.00 feet to the place of beginning, EXCEPT the south 30.00 feet thereof for road right-of-way. Generally located on the north side of 53<sup>rd</sup> Street North between Rock and Webb Road

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a major utility. The major utility will be 165-foot water tower (see attached illustration) that will provide all the current and future potable water supplies for the residential, commercial, industrial, and fire needs of the northeastern distribution area. The proposed tower will hold approximately 1 million gallons of water. The northeastern distribution area is roughly defined as the area north of 21<sup>st</sup> Street North and east of Webb Road. The last water towers built to serve the City of Wichita were constructed on the Wichita State University Campus in 1980 and one on Woodlawn and 21<sup>st</sup> Street North in 1974. The applicant has provided a site plan.

The subject property is a 3.5-acre, unplatted tract located between Rock Road and Webb Road (approximately at the mid-mile point) on the north side of 53<sup>rd</sup> Street North. The subject property and surrounding properties are zoned "RR" Rural Residential and are used for agricultural purposes. The closest homes are approximately ½ to the northwest and the southwest on the east side of Rock Road. The site is bounded on the south by 53<sup>rd</sup> Street North and on the west, east and north sides by farmland. Approximately ¾ of a mile southwest of the site and north of 45<sup>th</sup> Street North there is a residential subdivision with over 500 hundred lots. This is the Sawmill Creek Subdivision, which was recorded in 2001 and is an indication of the current and anticipated urban growth in this northeast area.

The submitted a site plan shows the proposed water tower's location with a proposed wrought iron fence with 16-foot double wrought iron gate, a detention storage area (also to be used for tower spill over), easements, setbacks, driveway, parking area and existing trees. The applicant has stated that the wrought iron fence is to be 6-feet high and could be replaced with an 8-foot chain-link fence with three strands of barbed wire around it. The applicant is also aware of and is addressing the landscaping requirements for the site. Typically Water Department personnel would be on the site one or two times a week to monitor the facility.

**CASE HISTORY:** The subject property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

**PUBLIC SERVICES:** The site has access to 53<sup>rd</sup> Street North, a two-lane gravel township road. 53<sup>rd</sup> Street North intersects into Rock Road on the east and Webb Road on the west, both are 2 lane paved county highways at this location. There are no traffic counts at either intersection. There is no City sewer at the site.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide identifies this area as "rural." This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses and large lot residential subdivisions with provisions for future water and sewer services. The area is also just immediately outside both the 2010 & 2030 Urban Service Areas, which lie to the south and west of the site. Even though the site is just outside these urban growth areas, studies conducted by the Water Department have sighted this northeast area as one of potential growth that will need the added capacity for potable water that the water tower will provide. A water tower is classified as a major utility. Major utilities are needed to provide the general public with electricity, gas, heat, steam, communication, rail, transportation, water, sewage collection and other similar services. A major utility is a conditional use in all zoning districts.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to platting the subject property within one year and subject to the following Conditional Use restrictions:

- A. The applicant shall obtain all permits necessary to construct the water-tower
- B. The water tower shall be a maximum of 165-feet in height and shall not be lighted unless required by the FAA.
- C. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed water tower and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, City Code Enforcement, and Director of Airports prior to the issuance of a building permit.
- D. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational. The site plan shall include landscaping to be reviewed and approved by the Zoning Administrator.
- E. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- F. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture. Approximately ¾ of a mile southwest of the site a large residential subdivision was recorded in 2001. This subdivision is an indication of the current and anticipated urban growth in this area that proposed water tower will serve.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is currently used for agriculture. The site is apparently suitable for continued agricultural use but the proposed water tower should be no more offensive than normal agricultural operations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening and lighting standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide identifies this area as "rural." The area is also just immediately outside both the 2010 & 2030 Urban Service Areas, which lie to the south and west of the site. Even though the site is just outside these urban growth areas, studies conducted by the Water Department have sighted this northeast area as one of potential growth that will need the added capacity for potable water that the water tower will provide.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity. This water tower will support current and future community facilities

BILL LONGNECKER, Planning Staff presented the staff report.

Barfield in at 1:42 p.m.

HENTZEN One mile from here the City of Bel Aire is constructing a water tower. Why is the City of Wichita putting up a tower here? We worry about the spread of cell towers so much, and the duplication of their services. Aren't we doing the same with this tower?

LONGNECKER The city water tower is being built to meet the current needs, and future growth in this northeastern area. The northeastern distribution area is roughly defined as the area north of 21<sup>st</sup> Street North and east of Webb Road. The Water Department's studies have shown this area's potential, and recent, growth as having created the need for a water tower to serve the area's residential, commercial, industrial and fire requirements.

HENTZEN Has the City of Bel Aire been told that there is going to be a City of Wichita water tower within one mile of their tower?

LONGNECKER Bel Aire is outside the notification area, and this tower will service an area outside the Bell Aire growth area, and their area of influence.

HENTZEN We have heard some discussion that we are building a tower out west off of 21<sup>st</sup> Street. Is there a sewage plant going up in this northeastern area next?

LONGNECKER It is possible that another tower could be built sometime in the future on the west side. I am not aware of a sewer plant going up in this northeastern area.

HENTZEN Why does Wichita need a water tower at this location when it is not in the 2010 or 2030 growth area?

LINDEBAK The City still needs more water storage for the current developments that are going in. The City also supplies rural water districts in this area. This site is a high point in the area, and the location will serve current and future needs including addressing some of the current pressure problems along Rock Road. Those pressure problems involve some of the hospitals in the area.

HENTZEN Where will the city get the water?

LINDEBAK Wichita water comes from Lake Cheney, the Equus beds and some water wells. The water is treated and stored in the towers.

HENTZEN Where does Bel Aire get their water now?

LINDEBAK They get their water from the City of Wichita because it is more economical to get the water from us.

HENTZEN This is another attempt by Wichita to exercise power and influence over a small city, in this case Bel Aire.

MARNEL Bill, Condition B of the recommendation of approval, can you explain that?

LONGNECKER According to the planner with the Airport Authority, the FAA and the Director of Airports will coordinate review of the tower plans. Also note that the height of the tower will be 175-feet now instead of the 165-feet as stated in the staff report. I was notified of this after the staff report was written

CHRIS BOHM, Ruggles and Bohm, because the site is in the Bel Aire area of influence, we sent the plat to them for review. Bel Aire did not give us a response.

ANDERSON Where is the water main that serves this tower?

BOHM From the water tower at Webb Rd.

ANDERSON The water in that tower will serve the customers on line already?

BOHM Yes, it will re-enforce it.

LINDEBAK An additional line will be looped around to provide better service, and that is being done under separate contract.

**MOTION:** To approve subject to findings and conditions as amended, specifically amending Condition B to reflect height requirements to 175 and, Condition C, striking references to the Director of Airports.

**MARNELL** moved, **COULTER** seconded the motion, and it carried (14-0).

5. **Case No. ZON2002-00056** – Stanley E. and Teddi A. Krehbiel and Ernest A. and Treva J. Evans (Owner/Applicants); Austin Miller, Inc., c/o Kim Edgington (Agent) Request zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as:

Lots 7 and 8, Block G, Westerlea Village, Sedgwick County, Kansas. Generally located South of Maple and east of Ridge Road (339 & 353 S. Summitlawn)

**BACKGROUND:** The applicants request a zone change from "SF-5" Single Family Residential to "LC" Limited Commercial on a 0.9 acre platted tract generally located south of Maple and east of Ridge. The applicants propose to redevelop the subject property with unspecified commercial uses. The subject property is currently developed with two single-family residences.

The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for or in the process of being zoned for commercial uses. The properties to the south and east are zoned "SF-5" Single Family Residential and are developed with single-family residences. The property to the west has been approved for rezoning to "LC" Limited Commercial, subject to a pending plat of the property, and is currently developed with a single-family residence. The properties to the north are vacant and are currently zoned "LC" Limited Commercial and "SF-5" Single Family Residential. The properties to the north that are zoned "SF-5" Single Family Residential have been approved for rezoning to "LC" Limited Commercial, subject to a pending plat of the property.

Although the subject property has been identified in the Comprehensive Plan as appropriate for commercial uses, planning staff finds that the close proximity of the subject property to established low-density residential uses requires that commercial uses on the subject property be held to high development standards. To buffer commercial development on the subject property from existing residences to the south and east, planning staff recommends that a Protective Overlay be approved that continues the development controls established during the approval of the zoning changes on the adjacent properties to the north and west. The recommended Protective Overlay limits signage, lighting, noise, and building height; requires a six foot high masonry wall and a landscape buffer along the south and east property lines; and prohibits certain uses that are less compatible with residential development. If in the future the zoning of the residential properties to the south or east is changed to allow commercial uses, then the provisions of the Protective Overlay could be amended, but planning staff finds that high-intensity, auto-oriented commercial use of the subject property is not appropriate at this time.

Additionally, the character of the adjacent streets, the potential intensity of commercial traffic, and the potential for "cut-through" commercial traffic using University and Summitlawn all argue against the subject property gaining access from the streets to which it is adjacent and instead argue for the subject property gaining access only from Maple or Ridge through the adjoining properties to the west or north. Planning staff recommends that the subject property be replatted to ensure that sufficient street right-of-way, access controls, drainage plans, street improvements, and/or utility easements are in place to support commercial development of the property. More specifically, planning staff will recommend at the time of platting that access to the subject property be limited to cross-lot access from the adjoining properties to the north or west. Additionally, although planning staff does not recommend permitting commercial traffic to access University, if access is to be granted to University at the time platting, planning staff will recommend that the access be right-out only and that a guarantee be required to improve the street to commercial standards.

**CASE HISTORY:** The subject property is Lots 7 & 8, Block G, Westerlea Village Addition, which was recorded August 11, 1949.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5" & "LC"	Undeveloped
SOUTH:	"SF-5"	Single family residences
EAST:	"SF-5"	Single family residences
WEST:	"SF-5"	Single family residence

**PUBLIC SERVICES:** The subject property has frontage to University and Summitlawn, both of which are paved residential streets with open ditches. Municipal water and sewer services are currently provided to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the area between Maple, Taft, Ridge, and Summitlawn as appropriate for "Commercial" development. In order for the recommendation of the Land Use Guide to be consistent with the Commercial Locational Guideline regarding commercial traffic not accessing residential streets, the properties in this area would need to be replatted to front only Ridge, rather than both Ridge and Summitlawn, which would remain a residential street. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially generated traffic should not feed directly onto local residential streets.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year and subject to the following provisions of a Protective Overlay:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any adjoining property or property across the street from the subject property that is in a residential zoning district. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6 foot high masonry wall shall be constructed parallel to the south and east property lines where property in a residential zoning district is across the street from the subject property. The masonry wall along the south property line shall be setback from the property line a sufficient distance to provide the required landscaped street yard on the south side of the wall. The masonry wall along the east property line shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club;

recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; and vehicle repair.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for or in the process of being zoned for commercial uses. The zoning and land uses are residential to the south and east and are converting to commercial use to the north and west. Properties on other corners of the arterial intersection that are located within the same distance as the subject property from the intersection of Maple and Ridge are zoned for commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single Family Residential which accommodates moderate-density, single-family residential development and complementary land uses. The site is currently developed with a single-family residence; however, increasing commercial development at the intersection of Maple and Ridge could make this site less desirable for residential use in the future. Additionally, the site is located under the approach to Mid-Continent Airport, which could make this site less desirable for residential use in the future.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, noise, and building height; require a six-foot high masonry wall and landscape buffer along the south and east property lines; and prohibit certain uses that are less compatible with surrounding residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property is recommended to be replatted such that access is from an arterial, and the recommended conditions of approval should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially generated traffic should not feed directly onto local residential streets. The subject property is recommended to be replatted, in part to establish access control along University and Summitlawn to prevent commercially generated traffic from feeding directly onto a local residential street.
5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized through the replatting process, which should limit access to the subject property to an arterial street through cross lot access. Other community facilities should not be adversely impacted.

SCOTT KNEBEL Planning Staff presented the staff report.

MCKAY Do you have an aerial map for that piece of property? The property to the north and west is still single-family?

KNEBEL Yes, the properties to the north and west are still single-family, but were approved for rezoning to "Limited Commercial," subject to platting.

MCKAY That was all approved for rezoning except this one parcel? Okay.

WELLS Except for the drive-thru being allowed on the property to the west, are all of the conditions recommended for this property the same as for the rezoning to the north and west?

KNEBEL Yes, except for some minor rewording of the conditions to add clarity, the conditions are basically the same.

GAROFALO Weren't the properties to the west and to the north approved for rezoning sometime ago, and weren't they given only one year to plat?

KNEBEL There has been platting extensions granted. One case was heard this year. The others were done in 1999.

WARREN What does reverse vending machine mean?

KNEBEL An example would be machine where you bring propane bottles back for your deposit.

MILLER Another example is a machine where you bring aluminum cans for recycling.

KNEBEL It's basically an outdoor use, that's why we recommend that it not be permitted at this location.

HENTZEN At Maple and Ridge, the northwest corner, is Barney's place still there? I mean the northeast corner?

KNEBEL I don't know.

HENTZEN It looks like the recommended conditions would prohibit such a place on this property.

KNEBEL If Barney's is truly a nightclub that would be correct. However, if it were a restaurant with food sales being 50% of gross receipts, it would be permitted.

HENTZEN If we eliminated as many uses as you want, what is the applicant going to do with the property?

KNEBEL You'll need to ask the applicant what is proposed for the property. The applicant has not provided me with that information.

MARNELL The piece of property adjacent on Ridge Road, if the parking lot of a drive-thru facility on that property was located on this property, would recommended conditions prohibit that?

KNEBEL Yes, that is something to consider.

TIM AUSTIN, Austin Miller, We would like the same restrictions as the property on the west. We would like an outdoor sign or a billboard sign that is visible from the south from Ridge Road.

WARREN So on Condition A, what change would you want?

AUSTIN We want one billboard sign.

WARREN Take out the whole last sentence in Item A?

AUSTIN We need some clarification from Scott.

KNEBEL The billboard provision is in the first sentence, not the last sentence.

WARREN The first sentence you want deleted or modified?

AUSTIN We want the no off-site signs wording to be eliminated or deleted.

BISHOP What proposed use of the property does the applicant have in mind?

AUSTIN Some type of joint development there for multiple users.

BISHOP The reason I ask is, I take exception of having a masonry wall along the back because it blocks access to the neighborhood.

AUSTIN From the Code standpoint, we could probably put a break in it somewhere for pedestrians.

BISHOP There will be no big loading docks.

AUSTIN I don't think the property is big enough for uses that would require loading docks.

WELLS You want a billboard sign?

AUSTIN Yes, a billboard sign.

WELLS Where would it go?

AUSTIN The northwest corner of Lot 8.

GAROFALO You are indicating here that this will be developed as one developer basically?

AUSTIN There are two groups right now. The two developers are having discussions right now. They both want cross-lot access.

GAROFALO It is likely they would have to get a cross lot agreement to keep traffic on Ridge Road and on Maple.

AUSTIN There was some discussion on the access points at that time.

HENTZEN I think that idea of a pedestrian access point in a wall that long would be good, and it would make sense.

SUSAN KAMINSKI 352 Summitlawn I just bought this house. We want to protest against this. If this is zoned "Limited Commercial," it will change the character of this neighborhood. I think there is enough land in Wichita already zoned Limited Commercial that we don't need to go destroying the neighborhoods. Most of these homes were built in 1950. I don't want to see a Wal-Mart there or buildings that can be built there that are 25 foot tall. I don't want to look at a masonry wall either.

BISHOP There is no indication of District Advisory Board V hearing this case?

KNEBEL It was not scheduled because they heard the other three rezoning cases, and each of those cases was approved.

BISHOP So there has been no opportunity for a neighborhood hearing?

KNEBEL That is correct.

**MOTION:** To approve subject to the following conditions.

**WARREN** moved and **MCKAY** seconded the motion.

- A. No portable signs shall be permitted on the subject property. An off-site sign shall only be permitted if allowed by the provisions of the Sign Code. The location of the off-site sign shall be limited to the northwest quadrant of Lot 8, Block G, Westerlea Village Addition, and the off-site sign shall be a one-sided sign facing to the southwest. No signs shall be permitted along the face of any building or along any street frontage that faces any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any adjoining property or property across the street from the subject property that is in a residential zoning district. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6 foot high masonry wall shall be constructed parallel to the south and east property lines where property in a residential zoning district is across the street from the subject property. The masonry wall along the south property line shall be setback from the property line a sufficient distance to provide the required landscaped street yard on the south side of the wall. The masonry wall along the east property line shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment; and vehicle repair.

BISHOP I am not going to support the motion because of its impacts on the residential area to the east. I voted against the other cases as well because of the neighborhood impact.

WELLS Does your motion include limiting them to putting the sign on the northwest corner of Lot 8?

WARREN Yes, and the sign is going to have to face to the southwest.

GAROFALO I probably could have supported the motion until he included the drive-thru facilities.

WARREN I included it so that parking from a drive-thru on the property to the west could be located on this property.

GAROFALO There is no way we can keep the drive-thru on the properties to the west. We are not limiting this property to just parking.

WARREN It would have to spill out west, not east.

**Vote on the Motion** carried (10-4) BLAKE, BARFIELD, BISHOP and GAROFALO opposed.

6. **Case No. CON2002-00049** – Gerald and Catherine Mies (Owner/Applicants) Request Amendment to CU-553 to permit construction of a maintenance shop on property zoned "RR" Rural Residential on property described as:

The South 500 feet of the SW/4 of the SW/4 of Section 29, Township 25 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except that portion for highway. Generally located On the northeast corner of 199<sup>th</sup> West and 85<sup>th</sup> Street North

**BACKGROUND:** The applicant is requesting an amendment to CU-553 to allow the number of trucks permitted (Condition #3) on the unplatted site be increased from the current 20 trucks to 25 trucks. CU-553 was approved, with conditions, by the MAPC at their 01-13-2000 meeting. The Conditional Use was for milk transfer facility which is considered an 'agricultural sales and service' activity. The applicant is also proposing the construction of a 60-foot (x) 80-foot maintenance shop for milk trucks used in their milk transfer business. This would be considered as an 'agricultural sales and service' activity and was not included in the original Conditional Use, thus another need to amend CU-553.

The applicant has submitted a site plan showing the existing milk transfer building, the applicant's house, pool, pool house, sheds, an existing shop by the residence, existing trees, the parking-circulation area for the milk transfer station and the proposed maintenance shop. The maintenance shop will be used for tune-ups, brake repair, transmission and engine repair, lubrication, etc, but will not include painting or body repair work.

The application area is in the Equus Beds Groundwater Management District #2, one of only two water sources for the City of Wichita, and therefore raises concerns about hazardous material management for the maintenance shop. The Equus Beds District staff considers this area a "sensitive" groundwater area. Sedgwick County Environmental Code, and both County and Kansas Department of Health and Environment (KDHE) policies prohibit any commercially generated waste, to include chemical waste from commercial floor drains, from being discharged into lagoons or septic systems. The storage and disposal of waste oil, transmission fluids, lubricants, batteries, cleaning solvents and any other similar types of chemicals/oils used in the maintenance of the trucks must be done according to both County and KDHE policies. There is a monitoring well approximately ¾ of a mile east of the site. Sedgwick County Code Enforcement and Fire Department require building approval for the proposed maintenance shop.

The surrounding properties are used for agricultural purposes and are zoned "RR" Rural Residential. The closest homes are approximately ½ to the north and the southwest across K-96. The property is bounded on the south by 85<sup>th</sup> Street North, on the west by the 199<sup>th</sup> Street West - K-96 intersection, with farmland abutting its north and east sides.

**CASE HISTORY:** CU-553 was approved by the MAPC 01-13-2000 & by the BCOC 01-28-2000.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" agricultural fields  
SOUTH: "RR" 85<sup>th</sup> St N, agricultural fields  
EAST: "RR" agricultural fields  
WEST: "RR" 199<sup>th</sup> St N – K-96, agricultural fields

**PUBLIC SERVICES:** The site is served by on-site septic and well-water systems. Direct access to the site is available from 85<sup>th</sup> Street North, a 2-lane county sand road. The site also abuts 199<sup>th</sup> Street West, an unpaved 2 lane township road, on its west side. Approximately 800-850-feet west of the site is State Highway K-96, a divided 4-lane highway. Traffic volumes are not available.

**CONFORMANCE TO PLANS/POLICIES:** The "Sedgwick County Development Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural." This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses and large lot residential subdivisions with provisions for future water and sewer services. A 1996 update to the Unified Zoning Code (UZY) established 'agricultural sales and services' as a conditional use in the 'RR' & 'SF-20' zoning districts. The maintenance shop for the applicant's trucks would be considered an 'agricultural sales and services' activity and require an amendment to the original Conditional Use, CU-553. The request to increase the total number of trucks, condition #3 of CU-553, allowed on the site from 20 to 25 is an amendment to CU-553. The UZY requires an amendment to a conditional use to follow the same procedures as a conditional use.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within a year and the following conditions.

1. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable County and State codes, policies and standards. This plan shall include the safe storage and disposal of all commercial waste, the prevention of any commercial waste from entering the application area's lagoon, to include floor drains from the garage (if used), and the safe containment of any spilled commercial waste. This approved plan must be submitted to the County prior to the issuance of any building permits.
2. The applicant shall submit the "Regulated Waste Activity Notification" form to Kansas Department of Health and Environment, and obtain a regulated waste license from the Kansas Department of Health and Environment. This approved license must be submitted to the County prior to the issuance of any building permits.
3. Development and maintenance of the site shall be in conformance with the approved site plan, which shall include all structures identified and set back behind all current building lines, location of the lagoon, an approved landscape plan, parking for the milk trucks and employees, and an approved surface for the parking and circulation area. The approved site plan shall be submitted prior to the issuance of any building permits.
4. Amend Condition #3 of CU-553 to allow a total of 25 milk tankers - trucks to be allowed on the site at any one time.
5. No outside storage of salvage vehicles, parts chemicals, oils, or solvents.
6. No bodywork or painting of vehicles.
7. All maintenance work on vehicles shall take place inside the maintenance shop, which shall have a concrete floor.
8. The maintenance shop shall be used for the milk tanker-trucks used in the applicant's milk transfer station only and the shop shall not be advertised as a maintenance repair shop for trucks or vehicles not used by the applicant in this business. If the applicant proposes to repair any milk tankers – trucks not used by the applicant in this business or any other vehicles not used to move milk, the appropriate zone change must be obtained by the applicant. Vehicle repair shops, limited in "RR" zoning are not a permitted or conditional use.
9. Sedgwick County Code Enforcement and Fire Department shall approve the maintenance building plans, prior to the issuance of a building permit.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is used for agricultural purposes, the nearest residential neighbor is over ½ mile to the southwest and north. The character of the area is clearly agricultural.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits agricultural uses, rural based uses and large lot residential uses. The site could continue to be used without the Conditional Use. The number of trucks allowed on site at any one time has increased over what the applicant has anticipated and thus the application for the amendment. The need for maintenance on the trucks is a support activity.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: So long as the maintenance of only the applicant's milk-tankers-trucks takes place in the maintenance shop only, with a County and KDHE approved hazardous material waste storage and disposal plan, complies with all applicable laws and policies, and has no outdoor storage, this accessory use should have a minimal effect on the surrounding properties. The proposed amendment to CU-553 that would increase the total number of milk tanker - trucks allowed on the site at any one time from 20 to 25 will have a minimal effect on the surrounding area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The amendment to the approved conditional use is in conformance with the intent of Sedgwick County Development Guidelines for agricultural - rural based uses and the Unified Zoning Code's intent for agricultural sales and service.



5. Impact of the proposed development on community facilities: The impact would include a minimal amount traffic increase on the 85<sup>th</sup> Street North – 199<sup>th</sup> Street West – K-96 intersection. Impact on the Equus beds, which supply water to the City, can be monitored to minimize the chance for contamination with the recommended conditions.

BILL LONGNECKER, Planning Staff, presented the staff report.

GAROFALO Are any of these conditions from the first CU permit?

LONGNECKER This is an amendment to CU-553 to allow an increase in the number of trucks on-site, and the addition of a maintenance shop. The maintenance would include tune-ups, oil changes and any similar mechanical work. The maintenance shop is seen as a support activity for the milk transfer business which was allowed by CU-553. The site is over the Equus Beds, and the containment, storage and disposal of oils and solvents is a concern which is addressed in the staff report.

GAROFALO This is not just for five more trucks, but also for the maintenance shop?

LONGNECKER Yes, that is correct. No maintenance of the vehicles is currently occurring or allowed on-site. The transfer of milk and the washing out of the milk tanks is the current activity. The waste from the milk tanks goes into the lagoon, which is allowed by KDHE. KDHE and the County would require an approved plan for the containment, storage and disposal of oils and solvents generated by the maintenance shop.

GERALD MIES, Applicant: We want to do a light maintenance on our trucks on-site, no body-work or painting. I have a shop in the City where I do heavier mechanical work. I have kept my current business neat and live on-site. I also have approval from the KDHE for what I am currently doing, and we are talking to them about what type of plan we need to handle the waste generated by the maintenance shop. We are in the Equus Beds, and I am aware of the need to protect it.

BARFIELD What is light maintenance?

MIES Oil changes, tune ups, etc., which would be done on my vehicles only.

HENTZEN I have been out there, and this is a good-looking operation, and it is a very important operation for the dairy farmers to this area. If I had my way I wouldn't limit the numbers of trucks. I think you should list the properties around there "RR" Rural Residential, and tell me the land is being used for agriculture. Other than his house, there are no other houses around it, and I think that should be pointed out specifically in the Staff Report.

LONGNECKER The nearest house to the site is approximately ½ mile north, and Staff has pointed out the agricultural character and zoning of the area in the Staff Report.

**MOTION:** To approve subject to staff conditions.

**MARNELL** moved, **COULTER** seconded the motion, and it carried (14-0).

JOHNSON If this is a milk operation, why do they have to do this?

MILLER They are not producing the milk themselves. They are considered to be "agriculture sales and service."

JOHNSON So if they had lots of farming equipment, they would not have to do this?

MILLER If they produced the milk on-site, then they would be considered agriculture and it would be part of an agricultural operation not requiring review.

7. **Case No. CUP2002-00037 DP150 Amendment #3** – Wal-Mart Properties, Inc., c/o Wal Mart Stores, Inc., Royal Associates c/o Wal Mart Properties #1221; Wichita Inn West Joint Venture, c/o Doug Maryott, Managing Partner; (owners); Kaplan, McMillan and Harris c/o Robert Kaplan (agent) Request amendment to The Landing Community Unit Plan on property described as:

Lots 1 and 2, The Landing 2nd Addition to the City of Wichita, Sedgwick County, Kansas. AND

Lot 1, Air Park 3rd Addition, Wichita, Sedgwick County, Kansas. AND

Lots 1 and 2, The Landing 2nd Addition to the City of Wichita, Sedgwick County, Kansas. AND

Lot 1, Air Park 3rd Addition, Wichita, Sedgwick County, Kansas except that part taken for highway in Condemnation Case 94C-1784. AND

Lot 1, Air Park 2nd Addition, Wichita, Sedgwick County, Kansas, except that part taken for highway in Condemnation Case 94C-1784. (CUP) Generally located North of Kellogg and east of Dugan.

**BACKGROUND:** The applicant is requesting that Parcel 1 with Wal-Mart be expanded from 627,920 square feet to 748,280 square feet. The increased 120,360 square feet is to expand the Wal-Mart from 127,539 square feet to 215,463 square feet and convert it to a Superstore. This is a 69 percent increase in gross floor area.

The applicant proposes to accommodate this expansion by relocating a small building on Parcel 4, Carrie B's, which is a freestanding bar next to the Wichita Inn. Carrie B's would be relocated from the east side of the hotel to the west side.

Additionally, the boundary line between Sam's (Parcel 2) would be shifted westerly approximately 100 feet and about 1/5 of Sam's parking field would be reassigned to Parcel 1 to meet Wal-Mart's parking requirements. The shifted parking area is the area closest

to Kellogg Drive between the fuel outlet and Wichita Inn. Wal-Mart and Sam's both exceed the Unified Zoning Code parking requirements currently and are ample to meet parking requirements generated by the Wal-Mart expansion. The proposed parking layout has 130+ spaces beyond UZC requirements. The C.U.P. also reduces the internal setback lines on the east side of Parcel 2, the west side of Parcel 1 and 4 to zero.

Currently there is a dry detention area that is grassed with several large trees located between Wal-Mart and Sam's. This area would be paved for parking. The site plan also shows parking spaces replacing some of the landscaped street yard areas along Julia, and utilizing some of the storage area behind the rear (north) of the building.

Wal-Mart has requested to amend the screening wall general provision to allow trees to be used to screen its outdoor storage area on the north of the building instead of complying with the current requirement that a screening wall no less than six inches below the height of the storage (including storage boxes and tractor trailers used as long term storage). (see Attachment #1) Wal-Mart has not been in compliance with the current screening requirement. A site inspection documented that portable storage units, pallets, and tractor-trailers were being used for storage and were located behind the wall but visible from the residential property to the north.

The property north of Taft is zoned "SF-5" Single-family and is developed with single-family residential except for the block between Brummett and Julia. This block is vacant and was approved for "LC" zoning in 2001 subject to platting, but platting has not been completed.

The surrounding area to the east and west is large-scale commercial uses on properties zoned "GC" General Commercial or "LC" Limited Commercial. Candlewood Hotel is located directly to the east of the rear storage area for Wal-Mart. Other uses to the east are Furniture Row, a car dealership, a new commercial building, and a small amount of vacant land. The property to the west includes McDonalds (Parcel 3 of this C.U.P.), Wendy's and a power center (Office Depot, Burlington Coat Factory, etc.). Kellogg Drive and the expressway form the southern boundary.

**CASE HISTORY:** The property was originally known as DP-2 Air Park that was approved in 1964. The amendment to DP-2 in 1973 added the parcel where Wal-Mart is located to the C.U.P., but the parcel was not developed for 15 years. In 1986, DP-150 and DP-151 were approved as replacements for DP-2, although; the staff report noted that the two new community unit plans "constitute amendments to DP-2" (Air Park). Amendment #1 in 1987 was to increase square footage for Wal-Mart permitted prior to freeway improvements on Kellogg, and Amendment #2 decreased the ultimate build-out on Parcels 1 and 2, but shifted acreage from the Wal-Mart parcel to the Sam's parcel for Sam's expansion. A fuel outlet was allowed by administrative adjustment in 1997.

#### **ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-6" Single-Family	Single-family residential
EAST:	"GC" General Commercial	Hotel, commercial, furniture stores
	"LC" Limited Commercial	vacant
SOUTH:	"GC" General Commercial	Auto sales and service
WEST:	"GC" General Commercial	McDonalds, shopping center

**PUBLIC SERVICES:** Access is along Kellogg Drive, a frontage road to the Kellogg freeway system with a slip-off exit to Dugan Road. Dugan Road is a local non-residential street bordered the C.U.P. on the west. Taft, a collector street, borders the C.U.P. on the north, and Julia, which is also a collector street, borders the C.U.P. on the east. Traffic counts are not available along the collector streets except at Julia and Maple approximately two blocks north of the site. Average daily traffic in 2002 was 12,413 at Julia and Maple. Traffic along Kellogg freeway is 100,000 ADTs +, but figures are not available to evaluate the exiting volumes at Dugan.

Normal municipal services are available to the site. A sanitary sewer line is located in a 20-foot utility easement along the current parcel boundary between Wal-Mart and Sam's. The proposed Wal-Mart building would be located over the existing line. This line will need to be relocated. Also, an open drainage detention is being paved for parking, which will probably require redesign of the drainage plan for the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the C.U.P. property as appropriate for "commercial" development.

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the *Comprehensive Plan* recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**Commercial Locational Guideline #5** "allows local and collector residential streets to be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas".

**RECOMMENDATION:** The proposed C.U.P. is in conformance with the land use guide of the *Comprehensive Plan*. Refinements of access points, landscaping and screening would improve conformance with **Strategy III.B.2**. Regarding access, Parcel 1 is granted five potential openings onto Julia, but only two openings are constructed or are proposed by the site plan for the Wal-Mart expansion. It is requested that the permitted number of access points be reduced to two points on Julia to eliminate this discrepancy. Secondly, the proposed landscape plan offers a significant improvement to the existing amount of landscaping along Julia, Taft and internal landscaping in the parking lot. However, this is counterbalanced by the loss of open space within the drainage area between Sam's and Wal-Mart, and by the fact that the existing landscaping is out of compliance with the plans approved and in effect since 1987.

The additional landscaping along Taft is proposed to eliminate the requirement for the screening wall to be no less than six inches above the height of the material being screened for Parcel 1 (Wal-Mart). Code enforcement personnel have expressed concerns that repeated attempts to achieve compliance to the existing screening and landscaping requirements have been ignored. Code enforcement staff has expressed reservations that while substitution of landscaping for a taller wall may be aesthetically pleasing, past experience has indicated that installation and maintenance of the landscaping would be an ongoing enforcement issue. Additionally the minimum height of trees when installed would not screen the outdoor storage for several years.

Past practice of Wal-Mart has been to use outdoor onsite storage of materials rather than internal or off-site warehousing. The expanded site plan reduces the potential area where these onsite outdoor storage activities can occur and comply with screening requirements. It is recommended that the areas where onsite storage is permitted be delineated on the C.U.P. and that outdoor storage be prohibited in all other locations, including prohibiting it upon areas designated as vehicle parking spaces.

Based upon the information available prior to the public hearing, staff recommends the request be APPROVED for Amendment #3 to the Community Unit Plan (DP-150), subject to the following conditions:

1. Restore the 10' landscape buffer strip on the east side of Parcel 1 from the north line of Hendryx to the south line of Taft and the 20' landscape buffer strip on the north side of Parcel 1 and 2.
2. Reduce the number access points allowed on Julia to two points.
3. Do not replace General Provision #15 of the C.U.P. (as submitted for the amendment) with the requested change in Attachment #1.
4. Add parking lot landscaping and screening in Wal-Mart's expanded parcel area located between Parcel 2 and Parcel 4.
5. Prohibit outdoor storage of materials (pallets, etc) and portable storage containers except within a designated compound surrounded by a screening wall with a minimum height of six inches above any materials. Revise the C.U.P. to identify the location where outdoor storage may be permitted and prohibit it in all other locations.
6. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
10. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property north of Taft is zoned "SF-5" Single-family and is developed with single-family residential except for the block between Brummett and Julia, which is vacant and was approved for "LC" zoning in 2001 subject to platting, but platting has not been completed. The surrounding area to the east and west is large-scale commercial uses on properties zoned "GC" General Commercial or "LC" Limited Commercial. Candlewood Hotel is located directly to the east of the rear storage area for Wal-Mart. Other uses to the east are Furniture Row, a car dealership, a new commercial building, and a small amount of vacant land. The property to the west includes McDonalds (Parcel 3 of this C.U.P.), Wendy's and a power center (Office Depot, Burlington Coat Factory, etc.). Kellogg Drive and the expressway form the southern boundary.
2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "GC" and could be developed accordingly.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Increased potential for violation of screening requirements by reducing the height requirements and replacing it with landscaping (primarily evergreen) poses a threat to the residential properties north of Taft because of the need for ongoing enforcement of this requirement.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed amendment conforms to the Wichita Land Use Guide.
5. Length of time the land has been vacant as currently zoned: None; the property already is the site of Wal-Mart at the current time.
6. Impact of the proposed development on community facilities: The increase in gross floor area devoted to retail sales will generate additional traffic on Kellogg Drive and the collector streets in the vicinity, but not beyond the levels that they are designed to accommodate. The expansion would necessitate relocation of a sanitary sewer line and a utility easement and revision of the storm water plan for the site.

DONNA GOLTRY, Planning staff presented the staff report.

BISHOP What about the District Advisory Board hearing?

GOLTRY This did not go to the D.A.B.

LINDEBAK Their meetings don't get over until midnight the way it is, even without all of our zoning cases going to D.A.B. V as well.

BARFIELD Those tractor-trailers-- those are not outdoor storage are they?

GOLTRY Yes. They do use tractor-trailers for outdoor storage.

GAROFALO Looking at condition #3: Do not replace General Provision #15 of the C.U.P. (as submitted for the amendment) with the requested change in Attachment #1, what does that mean?

GOLTRY Originally, they wanted to use evergreen trees. Instead we want the existing screening wall to be kept in effect. Condition #3 can be deleted now (they have agreed to keep the screening wall).

BARFIELD Would double stacking of containers be allowed here?

GOLTRY Yes, but they would have to have a taller wall. That is as the condition is written.

ROBERT KAPLAN, Kaplan, McMillian and Harris I have no formal presentation. We have spent a lot of time with Randy Sparkman and Donna Goltry. Most of the issues have been spent on screening issues, and to improve the screening on Taft Street. I believe we have accomplished that. We are in agreement with staff. This is going to be designed with a 10-foot wall. There will be no containers within the line of sight. I have the engineer and architect present today if we have any questions for them. The screening on the site will be much better than currently exists. There will be no visibility of the trailers, and they will go down into the truck well. They will be beyond the line of sight. You will not be able to see them. We have a short power-point presentation prepared if you want us to show them. Beyond that, we are pretty much in agreement with staff.

GAROFALO I want to know that Wal-Mart is going to do these things?

KAPLAN They are designing an overall policy that Wal-Mart is going to submit to the City of Wichita. My understanding is that they are going to give a policy statement to the City of Wichita. Randy Sparkman is here if you would like to ask him any questions. He is working with them. They want to do one policy, and take it out of the individual store manager's hands. That is my understanding.

KIMBLERY CLIFTON, 453 Meadowhaven I live right here at Taft and Meadowhaven. First of all, I look at a brick wall. I look at several different heights and colors. The trash containers are being worked on. They do not schedule times to pickup their trash. The trash is bad. Their trash is not covered. The wall that will be going up, it needs to be the same color and they need to be same height. The plans that were approved...things did not get put up the way that they said that it was going to be. There are four different kinds of walls, all different colors. Our property values are going down. BFI comes at 3:00 and 5:00 a.m. They pick up the trash, and as a working person I am tired of getting woke up at all hours of the night. As a Planning Commission, I am asking you to help me make these companies conform to policy, and quit ignoring these eye-sores. We bought our homes before these businesses were here. They are not complying with what they agreed to do. I got ticketed last Thursday because I could not mow my lawn, because there were so much trash and tie-ends to pick up. It ruined my mower.

Please consider the following request. They are no longer requesting that there not be a wall. We would ask that you would discuss with them their trash issues. The entrance off Taft they use for parking, and they allow their customers to use that. We want speed limit signs posted to stop the drag racing. We want walls matching; we want a separate hearing for this. We want to talk about the trash schedules.

KAPLAN When this first started, I was not wanting the masonry wall either. Then the trash area comes up. I guess it does help with the trash. I was trying to push staff to do light screening with slatted shingling. We went out there, and we don't have room to accommodate it. I will carry these comments to Wal-Mart, to the store managers and maybe Randy Sparkman can speak with the Wal-Mart's. As far as the color and styles of the walls, I can let them speak.

WARREN Is there a private drive that is going to be closed?

KAPLAN I don't think they want to close the opening on Taft.

TERENCE L HAYNES, Spear & McCaleb Co, P.C. 815 W. Main, Oklahoma City, OK. 73106: It would be difficult to close the opening on Taft.

WARREN The continuation of the screening wall, and the opening to the north onto Taft is going to stay open?

HAYNES Yes, it would be accessed between the SuperCenter and the Sam's club. There is an open space. Trash is a major issue of this project.

WARREN Show me what are you going to do with this wall?

HAYNES The wall is six feet on the north side of Wal-Mart and Sam's Club. We propose to leave a wing-wall six feet to 10 feet north of the Super Center, and the wing wall extended. There will be a screen wall to screen off the trash compactor.

WARREN The wall will be a continuing screening wall with no breaks?

HAYNES Yes.

MICHAELIS Mr. Kaplan, could you get this lady's ticket taken care of. Why should we create this large of a building, and have this much outdoor storage? I don't understand all of this outside storage.

BLAKE out at 2:30 p.m.

KAPLAN It is not just Wal-Mart that uses outdoor storage. During its seasonal times, Christmas, Easter, etc, that they use outdoor storage. You cannot accommodate all those holidays without outdoor storage. We see that from all retailers. The corporate way of thinking is that if it is under their roof, they want that to be used for display area.

MICHAELIS I promise you, all of those outdoor storage trailers are full all of the year. It is just not seasonal.

KAPLAN It is not just Wal-Mart doing this. But we are bringing these issues up during discussions with Wal-Mart and Randy Sparkman.

MARNELL What difficulty to your operation of that facility would occur if that private drive access was closed off Taft? There is access all of the way around on the other side.

HAYNES I have not talked with the operations group at Wal Mart. Emergency agencies could not get there. What if we shut down that property to just access on Julia and Dugan? I would have to ask Wal Mart.

WARREN I think today knowing what we know today, we probably wouldn't grant that opening on Taft. Maybe we should close that Taft drive, and extend that wall all the way down.

HAYNES I did employee traffic -engineering consultants. They have run the traffic counts. They do address the shutting down the entrance on Taft.

WARREN Has Wal Mart looked at an interior design for trash?

HAYNES There are those cardboard storage units. They are called Cram-a-lot.

MCKAY I do not think the City Fire Department will let you look at that.

JOHNSON It could be gated.

**MOTION:** To approve subject to the following conditions:

1. Restore the 10' landscape buffer strip on the east side of Parcel 1 from the north line of Hendryx to the south line of Taft and the 20' landscape buffer strip on the north side of Parcel 1.
2. Reduce the number access points allowed on Julia to two points.
3. Add parking lot landscaping and screening in Wal-Mart's expanded parcel area located between Parcel 2 and Parcel 4.
4. Prohibit outdoor storage of materials (pallets, etc) and portable storage containers except within a designated compound surrounded by a screening wall with a minimum height of six inches above any materials. Revise the C.U.P. to identify the location where outdoor storage may be permitted and prohibit it in all other locations. Prohibit seasonal sales display in assigned parking spaces.
5. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**MCKAY** moved, **WARNER** seconded the motion, and it carried (13-0).

BISHOP I would ask of staff, is there notification of an administrative adjustment being made?

GOLTRY We have the red and white signs posted for 10 days. That is our source of notice, and if we receive call from the neighborhood, we follow-up on those.

BISHOP What is a minor, and what is a major change.

GOLTRY We have guidelines in the Code, and these things are also set by the Zoning Administrator.

MICHAELIS I want to put something in the motion that Kaplan will get together with the neighborhood. I want that in the motion.

BARFIELD On Kellogg, and the back of the building as well.

GOLTRY I believe it is a different case that they referred to, and the sign was posted on Taft.

JOHNSON I appreciate the lady that came here today and is trying to work with the business and with the agent representing thereof.

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**8. Case No. DR2001-00009 - Amendments to The Wichita-Sedgwick County Subdivision Regulations.**

The amendment reflects current policy for County Surveying regarding plat review. The latest amendments to the Unified Zoning Code applicable to the Subdivision Regulations were included. A new section addressing current policy for plat extensions was also added.

The amendment codifies our current policy for cul-de-sac street length for rural plats. A maximum street length of a half-mile will be permitted for: a) streets which contain a 36-foot wide rock surface and propose future access to adjoining properties, and for b) a final plat that is a portion of an overall preliminary plat that indicates eventual continuation of the street. The maximum cul-de-sac street length for urban plats was also revised from 600 feet to 800 feet.

**The amendment also codifies our current policy for Street lighting in the City and extends its applicability to new urban-scale residential subdivisions located within Wichita's three-mile ring.**

For plats or lot splits in areas with existing water and sewer service, an amendment was added that permits a public sewer easement or public water easement to be established over a private sewer line or private water line in limited situations with the approval of the City of Wichita Water and Sewer Department.

The current section entitled "Vesting of Development Rights" was revised to include a rewording of the current regulations regarding certain properties in the County that are currently exempt from platting. No substantive changes were made, only revised language to eliminate existing ambiguities and address the August 2002 development deadline for undeveloped contiguous lots held in common ownership.

The section entitled "Applicability" was revised to delete the language which implies that platting is required for any sale or division of land. It clarifies that platting, replatting, or a lot split is required before the issuance of building permits.

Applicable sections regarding access issues were revised in accordance with the City of Wichita Access Management Policy.

For regulations involving water supply systems or sewage disposal systems, references to the City-County Department of Health were replaced with "City Environmental Health Department/County Code Enforcement, as applicable".

Planning staff has reviewed this amendment with the City and County Legal Departments prior to review by the Subdivision Committee. The Subdivision Committee reviewed the proposed amendments on September 19, 2002.

These amendments to the Wichita-Sedgwick County Subdivision Regulations will affect properties both inside the city limits and in the unincorporated area of Sedgwick County.

NEIL STRAHL Planning Staff presented staff report.

**MOTION:** To approve proposed changes.

**MCKAY** moved, **ANDERSON** seconded the motion, and it carried (13-0).

BISHOP I understood the last Comp Plan there was going to be an exploration of clustering within the Subdivision Regulations.

STRAHL They were taken out at this time. We thought it best to send it along without them, and come back to that issue at a later time. The lot bundling issue will be deferred.

WARREN One reason is because of the alternative sewer issue.

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**9. Other matters/adjournment.**

MEHTA I have three items that are not on the agenda, the first has to do with a representative from the MAPC to sit in on the Voluntary Air Quality improvement Task force. There is a meeting coming up on October 30<sup>th</sup>, and we will be discussing the findings

of a major study just completed that involves an inventory of activities that cause ozone. In the near future, I'll be referring you to policies and programs that could help lower the levels of ozone in this community and also help avoid falling into a non-attainment designation.

HENTZEN Jerry Michaelis represented the MAPC in the past. If no one wants to volunteer, I will ask Jerry he would like to continue serving on that Task Force, and if he does not want to do it anymore, then I will do it.

MEHTA The next topic has to do with a request the MAPC had from last week, to look at all the transportation enhancement projects that were awarded but have not been built as yet. The one-page table I have just handed out is a listing from four jurisdictions that are engaged in developing, designing or constructing the pathways at this time.

LINDEBAK The one project called Arkansas River Bridges that has the question mark on it, that's the one that connects the two banks to the Keeper of the Plains and there are some issues with West Star that need to be resolved.

MEHTA The Third topic is about endorsing a unified position from various Kansas transportation related agencies on the future federal transportation bill. I did include a report in your mail out that explains the consensus position. As you all may know, TEA -21 expires on 9-30-03, and Congress will be hearing from a lot of interest groups lobbying for their positions in the new bill. The Planning Department has in the past worked with these groups in drafting a consolidated position statement, and the MPO has endorsed it each time with ISTEA and then with TEA -21. We feel this is the best way to project our concerns and interests to Congress. We expect our congressional delegates to get a copy and they will be briefed on our Kansas position. If you have any problem or concern regarding any of the positions being taken, I will attempt to answer them. You are not required to endorse this position either, but if you do decide not to go with it for any reason, then I would like to relay the reasons why to the rest of the working group.

BISHOP The item on page 3 that refers to sanctions I am assuming that is the type of sanction occurs if say we have poor air quality and they put sanctions on transportation funding.

MEHTA That's one of looking at it, but my take on it is more along the lines, say the feds look at the state's poor use of seat belt enforcement, or some other measure, and cut federal funding.

BISHOP We could have some those sanctions on the federal side?

MEHTA Yes.

**MOTION:** To approve the joint position statement of the Kansas Transportation Reauthorization Committee and authorize the Chairman to sign the Record of MPO Action.

**JOHNSON** moved, **COULTER** seconded the motion, and it carried (12-0).

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The Metropolitan Area Planning Department informally adjourned at 3:41 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, Dale Miller, Assistant Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Dale Miller, Assistant Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)